## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA SOUTHERN DIVISION No. 7:19-CV-63-BO

SHAMUS BLAND,	)	
71.1.100	)	
Plaintiff,	)	
	)	0,0,0,0,0
v.	)	<u>O R D E R</u>
	)	
LARRY BOOTH and MAVERICKS	)	
	)	
POINTE,	)	
<b>5</b> 6 1	)	
Defendant.	)	

This cause comes before the Court on the memorandum and recommendation by United States Magistrate Judge James E. Gates. [DE 5]. On May 3, 2019, Judge Gates recommended that plaintiff be permitted to proceed *in forma pauperis* and that his claims under 42 U.S.C. § 1981 proceed, but that his claims under Title VII be dismissed. *Id.* No objections to the M&R have been filed and the matter is ripe for review. For the reasons that follow, the M&R is ADOPTED.

## BACKGROUND

In March 2019, plaintiff filed a *pro se* application to proceed *in forma pauperis* under 28 U.S.C. § 1915. [DE 1]. Plaintiff alleges that he was discriminated against on the basis of his race while employed as a cook at Mavericks Pointe Restaurant in Sunset Beach, North Carolina, and ultimately terminated in August 2018 after only eight weeks of employment. In May 2019, Judge Gates entered the instant memorandum and recommendation (M&R), granting plaintiff's application to proceed *in forma pauperis* and recommending that plaintiff's claims must be dismissed to the extent that they rely upon Title VII of the Civil Rights Act of 1964, but that plaintiff's claim under 42 U.S.C. § 1981 should be permitted to proceed.

## DISCUSSION

A district court is required to review *de novo* those portions of an M&R to which a party timely files specific objections or where there is plain error. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140, 149–50 (1985). "[I]n the absence of a timely filed objection, a district court need not conduct de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (internal quotation and citation omitted).

No party has objected to the M&R and the time for doing so has passed. The Court has reviewed the M&R and is satisfied that there is no clear error on the face of the record. Accordingly, the memorandum and recommendation is ADOPTED.

## **CONCLUSION**

The memorandum and recommendation of Magistrate Judge Gates is ADOPTED and plaintiff's claim under Title VII is DISMISSED. Plaintiff's claim under § 1981 may proceed.

SO ORDERED, this day of May, 2019.

TERRENCE W. BOYLE

CHIEF UNITED STATES DISTRICT JUDGE